

SENATE BILL 2817
By Fowler

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, relative to sexual offender registration and monitoring.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-39-102, is amended by inserting the following as a new, appropriately designated item:

() "Community" means the geographical area and/or population within the boundaries of a district attorney general's district.

SECTION 2. Tennessee Code Annotated, Section 40-39-106(c), is amended by deleting the following words and punctuation:

; provided, that the TBI or a local law enforcement agency may release relevant information deemed necessary to protect the public concerning a specific sexual offender who is required to register pursuant to this chapter.

and by substituting instead the following words and punctuation:

; provided, that the TBI or a local law enforcement agency may release relevant information deemed necessary to protect the community concerning a specific sexual offender who was convicted of a sexual offense prior to January 1, 1997, and who is thereby required to register pursuant to this chapter. With respect to a specific sexual offender who is convicted of a sexual offense on or after January 1, 1997, and who is

thereby required to register pursuant to this chapter, any such release of information deemed necessary to protect:

(1) the community, which includes the offender's place of residence, shall be a joint action of the district attorney general, the district public defender and the chief officer of the local law enforcement agency for the offender's place of residence; and

(2) the community, which includes the offender's place of employment, shall be a joint action of the district attorney general, the district public defender and the chief officer of the local law enforcement agency for the offender's place of employment.

Such joint action shall be undertaken in accordance with the provisions of Section 3 of this act and the rules promulgated pursuant thereto. Nothing contained within this section or Section 3 of this act shall be construed to prevent any state or local law enforcement agency from providing public notification concerning any person, who poses a danger, under circumstances other than those specifically addressed by the provisions of this act.

SECTION 3. Tennessee Code Annotated, Title 40, Chapter 39, Part 1, is amended by adding the following as a new section immediately following Section 40-39-106, and by renumbering subsequent sections accordingly:

(a) Acting in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, and following consultation with the advisory council established pursuant to subsection (c), the attorney general and reporter shall, prior to January 1, 1997, promulgate rules to prescribe uniform evaluation and notification guidelines, policies, and procedures to govern release of confidential information necessary to notify and protect a community concerning a specific sexual offender who is convicted of a sexual offense on or after January 1, 1997, and who is

thereby required to register under the provisions of the Sexual Offender Registration and Monitoring Act. Such rules shall require that written notification be mailed, prior to the time of a joint evaluation, to the offender's reported residential address inviting the offender to submit comments and respond to questions. Such rules shall strive to achieve a reasonable and prudent balance between an offender's right of privacy and the public's right of personal security and safety from criminal victimization and harm. Utilizing the guidelines, policies, and procedures set forth in such rules, the district attorney general, the district public defender and the chief officer of the local law enforcement agency for the offender's place of residence shall jointly evaluate the offender's risk of re-offense; and the district attorney general, the district public defender and the chief officer of the local law enforcement agency for the offender's place of employment shall jointly conduct a separate evaluation of the offender's risk of re-offense. If the offender's risk of re-offense is deemed to be low, then there shall be no notification other than the notification required by Tennessee Code Annotated, Subsections 40-39-106(a) and (b). If the offender's risk of re-offense is deemed to be moderate, then the district attorney general, district public defender and the chief officer of the local law enforcement agency shall jointly notify appropriate organizations and entities, within the community, which may reasonably be expected to experience direct contact with the offender under circumstances which could prove hazardous to individuals served, supervised or employed by, or belonging to, such organizations and entities. Such organizations and entities may include, but not necessarily be limited to, recreational facilities, church organizations, residential facilities, schools, youth organizations, retail establishments and child care institutions. If the offender's risk of re-offense is deemed to be high, then the district attorney general, the district public defender and the chief officer of the local law enforcement agency shall, in addition to notifying such appropriate organizations and entities, jointly undertake additional means

of notification designed to directly reach individuals within the community who may be reasonably expected to experience direct contact with the offender under circumstances which could prove hazardous.

(b) The rules shall identify factors to be considered in an evaluation of a sexual offender's risk of re-offense as well as guidelines for weighing such factors. Such factors shall include, but not necessarily be limited to:

(1) Conditions of release that minimize the risk of re-offense, such as probation or parole supervision; counseling, therapy or treatment; or a home situation which provides guidance and supervision;

(2) Physical conditions that minimize the risk of re-offense, such as advanced age or debilitating illness;

(3) Criminal history factors, such as:

(A) Conduct characterized by repetitive and compulsive behavior;

(B) Whether the offender served the maximum sentence;

(C) Whether the offender selected a child as a victim;

(D) The relationship between the offender and the victim;

(E) Whether the offense involved a weapon, violence, or infliction of serious bodily injury; and

(F) The number, date and nature of prior offenses;

(4) The offender's psychological or psychiatric profile;

(5) The offender's response to treatment;

(6) The offender's recent behavior while confined or under supervision in the community as well as recent behavior in the community following service of sentence; and

(7) Any recent threats issued by the offender against persons or any expressions of intent to commit additional crimes.

(c) There is hereby created an advisory council on uniform evaluation and notification. The council shall consist of twelve (12) members as follows: the commissioner of corrections, or the commissioner's designee; the director of the Tennessee bureau of investigation, or the director's designee; the commissioner of mental health and mental retardation, or the commissioner's designee; the chairman of the board of paroles, or the chairman's designee; two (2) district attorneys general, who shall be appointed by the district attorneys general conference; two (2) district public defenders, who shall be appointed by the district public defenders conference; two (2) county sheriffs who shall be appointed by the governor, one of whom shall serve a rural county; and two (2) municipal chiefs of police who shall be appointed by the governor, one of whom shall serve a rural municipality. The attorney general and reporter, or the attorney general's designee, shall convene the advisory council and shall serve as its chair. Members of the council shall receive no salary for serving thereon but may receive reimbursement for necessary travel expenses incurred while engaged in council business, such reimbursement for travel expenses to be paid in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration. Prior to January 1, 1997, the advisory council shall assist the attorney general and reporter in developing uniform evaluation and notification guidelines, policies, and procedures to govern release of information necessary to notify and protect a community concerning a specific sexual offender who is required to register under the provisions of the Sexual Offender Registration and Monitoring Act. In January 1998, the advisory council shall be reconvened by the attorney general and reporter in order to review implementation of evaluation and notification guidelines, policies and procedures and to recommend such revisions as may be necessary and desirable. At the conclusion of such review, the advisory council shall cease to exist.

SECTION 4. Tennessee Code Annotated, Section 40-39-106(d), is amended by deleting the words and punctuation "officers and employees of the TBI;" and by substituting instead the following:

district attorneys general, their officers and employees; district public defenders, their officers and employees; officers and employees of the TBI;

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. For purposes of convening the advisory council on uniform evaluation and public notification and for purposes of promulgating rules, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 1997.